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11 Attorneys for Defendant
12 DELTA AIR LINES, INC.

13 UNITED STATES DISTRICT COURT
14 SOUTHERN DISTRICT OF CALIFORNIA

16 JEFFREY P. SPENCER, on behalf of
17 himself and all persons similarly situated,

18 Plaintiffs,

19 v.

20 DELTA AIR LINES, INC. and
21 DOES 1 through 100, inclusive,

22 Defendants.

Case No. '10 CV 1594 JM

WMC

CLASS ACTION

**DEFENDANT DELTA AIR LINES,
INC.'S NOTICE OF REMOVAL TO
FEDERAL COURT**

Complaint Filed: June 28, 2010

FILED

10 JUL 30 PM 1:51

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY:

DEPUTY

1 TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT
2 COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA AND TO ALL PARTIES
3 AND THEIR ATTORNEYS OF RECORD:
4

5 Defendant Delta Air Lines, Inc. ("Delta ") provides notice that pursuant to 28
6 U.S.C. Section 1441, Delta removes to this Court the state court action titled *Jeffrey P.*
7 *Spencer v. Delta Air Lines, Inc.*, Superior Court of the State of California, County of San
8 Diego, Central Division, Case No. 37-2010-00095132-CU-BT-CTL.
9

10 The following is a short and plain statement of the grounds for removal:
11

12 **THE STATE COURT COMPLAINT**
13

14 1. On June 28, 2010, Plaintiff Jeffrey P. Spencer ("Plaintiff")
15 commenced a civil action in the Superior Court of the State of California, County of San
16 Diego, Central Division, by filing a complaint against Delta, identified as Case No. 37-
17 2010-00095132-CU-BT-CTL. This case was assigned to Department C-67, the
18 Hon. David B. Oberholtzer presiding.
19

20 2. Attached as Exhibit A is a copy of the state court file for this action,
21 including all pleadings, process, and orders served on Delta in the state court action. *See*
22 28 U.S.C. § 1446(a).
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**FEDERAL QUESTION JURISDICTION EXISTS BECAUSE PLAINTIFF'S
CLAIMS NECESSARILY DEPEND ON RESOLUTION OF SUBSTANTIAL
QUESTIONS OF FEDERAL LAW**

3. Federal courts have original federal question jurisdiction over actions "arising under the Constitution, laws, or treaties of the United States." 28 U.S.C. § 1331.

4. Federal question jurisdiction exists whenever a claim "necessarily depends on resolution of substantial questions of federal law," even if the plaintiff does not assert a federal cause of action. *See Franchise Tax Board v. Construction Laborers Vacation Trust*, 463 U.S. 1, 27-28 (1983); *see also Sparta Surgical Corp. v. National Ass'n. of Securities Dealers, Inc.*, 159 F.3d 1209, 1212 (9th Cir. 1998) (holding that removal is appropriate "although [the plaintiff's] theories are posited as state law claims, they are founded on the defendants' conduct . . . the propriety of which must be exclusively determined by federal law").

5. Here, Plaintiff asserts two causes of action, the first for alleged violation of California's Business and Professions Code Sections 17200, *et seq.* (the "UCL") and the second for alleged violation of California's Consumer Legal Remedies Act, codified at Civil Code Sections 1770, *et seq.* (the "CLRA"). In his first cause of action, Plaintiff claims that Delta's conduct "was an 'unlawful' business act or practice within the meaning of Business and Professions Code § 17200 because it violated 49 U.S.C. § 41712 and C.F.R. § 399.84." Complaint ¶ 24. In his second cause of action for violation of CLRA, Plaintiff incorporates his previous allegations. *Id.* ¶ 33. He claims that Delta's conduct was unfair and deceptive in violation of CLRA, in part because Delta allegedly violated 49 U.S.C. Section 41712 and federal regulations at C.F.R. Section 399.84.

1 6. Plaintiff's UCL and CLRA claims, therefore, "necessarily depend" on
2 "resolution of substantial questions of federal law." *See Franchise Tax Board*, 463 U.S. at
3 27-28; *see also Sparta Surgical Corp.*, 159 F.3d at 1212. Thus, federal question
4 jurisdiction exists.

5
6 **THE NOTICE OF REMOVAL IS PROCEDURALLY CORRECT**

7
8 7. The Removal Venue Is Proper. Pursuant to 28 U.S.C. Section
9 1446(a), Delta files this Notice of Removal in the U.S. District Court for the Southern
10 District of California. This venue is proper because Plaintiff originally filed his action in
11 the California Superior Court for the County of San Diego.

12
13 8. The Removal Is Timely. Pursuant to 28 U.S.C. Section 1446(b),
14 Delta files this Notice of Removal within thirty days of being served with the Summons
15 and Complaint. *See also Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344,
16 354 (1999). Plaintiff filed this action on June 28, 2010, but did not serve Delta with the
17 Summons and Complaint until July 1, 2010. Thirty days from July 1, 2010 is July 31,
18 2010, but because July 31, 2010 falls on a Saturday, Delta's deadline to file this Notice of
19 Removal is Monday, August 2, 2010. Delta has met this deadline.

20
21 9. Delta Has Sufficient Consent. Delta is the only named defendant in
22 this action. Delta is not required to investigate the identity of the unnamed DOE
23 defendants or to obtain their consent for removal. *See Necombe v. Adolf Coors Co.*, 157
24 F.3d 686, 690-91 (9th Cir. 1998); 28 U.S.C. § 1441(a).

25
26 10. Notice To Plaintiff And The Superior Court. In accordance with 28
27 U.S.C. Section 1446(d), Delta serves written notice of the filing of this Notice of Removal
28

1 on Plaintiff and will also file, and serve on Plaintiff, an appropriate notice with the
2 California Superior Court for the County of San Diego.

3
4 **CONCLUSION**

5
6 For these reasons, this Court has jurisdiction and Delta requests that this
7 Court proceed with this matter as if Plaintiff had originally filed his Complaint in the U.S.
8 District Court for the Southern District of California. Delta will file a response to that
9 Complaint within the applicable deadline.

10
11 Dated: July 30, 2010

12 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

13
14 By



15 PHILIP F. ATKINS-PATTENSON
16 SHANNON Z. PETERSEN

17 Attorneys for Defendant
18 DELTA AIR LINES, INC.
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7 **jeff@lakeshorelaw.org**

FILED
CIVIL BUSINESS OFFICE
CENTRAL DISTRICT

2010 JUN 28 A 10:10

CLERK-SUPPLEMENTAL
SAN DIEGO COUNTY, CA

ORIG...

8 **Attorney for Plaintiff**

9 **SAN DIEGO COUNTY SUPERIOR COURT, CENTRAL**
10 **COURTHOUSE, STATE OF CALIFORNIA (Unlimited Civil)**

11 **330 West Broadway, San Diego, CA 92101**

| | |
|--------------------------------------|---|
| 12 JEFFREY P. SPENCER, on behalf of |) Case No. <u>37-2010-00095132-CU-BT-CTL</u> |
| 13 himself and all persons similarly |) |
| 14 situated, |) |
| 15 Plaintiff, |) |
| 16 v. |) <u>CLASS ACTION</u> |
| 17 DELTA AIR LINES, INC., |) <u>COMPLAINT FOR</u> |
| 18 and DOES 1 through 100 inclusive, |) 1. Violation of Unfair Competition Law |
| 19 Defendants. |) (Business & Professions Code § 17200 et |
| |) al.) |
| |) 2. Violation of Consumer Legal |
| |) Remedies Act |
| |) (Civil Code § 1770 et. seq.) |

20 Plaintiff alleges as follows:

21 **PARTIES**

- 22
- 23 1. Plaintiff JEFFREY P. SPENCER, an individual, brings this action on behalf of
- 24 himself, and on behalf of a class of similarly situated persons pursuant to Code of
- 25 Civil Procedure § 382. Plaintiff is a resident of the State of California and a
- 26 competent adult.
- 27 2. Plaintiff is informed and believes, and thereupon alleges, that defendant DELTA AIR
- 28 LINES, INC. (DELTA) is now, and at all times mentioned in this Complaint was, a

- 1 corporation based in Atlanta, Georgia and doing business in the County of San
 2 Diego, State of California, and throughout the State of California and United States.
- 3 3. Plaintiff does not know the true names or capacities of the defendants sued herein as
 4 DOES 1 through 100 inclusive, and therefore sues these defendants by such fictitious
 5 names. Plaintiff will amend this complaint to allege their true names and capacities
 6 when ascertained. Plaintiff is informed and believes, and thereon alleges, that each
 7 of these fictitiously named defendants is responsible in some manner for the
 8 occurrences herein alleged, and that plaintiff's damages as herein alleged were
 9 proximately caused by those defendants. Each reference in this complaint to
 10 "defendant" or "defendants" or to a specifically named defendant refers also to all
 11 defendants sued under fictitious names.
- 12 4. Plaintiff is informed and believes, and thereon alleges, that at all times herein
 13 mentioned each of the defendants, including all defendants sued under fictitious
 14 names, and each of the persons who are not parties to this action but are identified
 15 by name or otherwise throughout this complaint, was the alter ego of each of the
 16 remaining defendants, was the successor in interest or predecessor in interest, and
 17 was the agent and employee of each of the remaining defendants and in doing the
 18 things herein alleged was acting within the course and scope of this agency and
 19 employment.

20 CLASS ALLEGATIONS

- 21 5. Plaintiff is a member of a class of persons, the members of which are similarly
 22 situated to each other member of that class. The class is defined as follows:

23 All persons who, on or after June 25, 2006, used Delta's
 24 website to purchase airline tickets for travel within the
 25 United States and were quoted a specified price if they
 26 entered their credit card (or debit card) information, who
 27 then entered their credit or debit card information in an
 28 attempt to purchase the airline ticket(s) at the quoted price,
 who were then quoted a higher price to purchase the
 identical ticket(s), and who then completed the transaction
 at the higher price.

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6. Plaintiff is informed and believes, and thereupon alleges, that the class plaintiff represents includes thousands of persons. The class is so numerous that it is impracticable to bring all members of the class before the court. The identity of the members of the class is easily ascertainable from defendant's own business records, or those of its agents, which would reflect the identity of the consumers who purchased airline tickets from defendant's own website for a higher price after being quoted a lower price.
7. The plaintiff and class members' claims against defendant involve questions of law or fact common to the class that are substantially similar and predominate over questions affecting individual class members in that all class members were solicited to purchase airline tickets at a specified price, entered their credit or debit card information to make the purchase and were then required to pay a greater amount for the identical tickets.
8. The claims of plaintiff are typical of the claims of the members of the class.
9. Plaintiff can fairly and adequately represent the interests of the class.

**FIRST CAUSE OF ACTION FOR UNFAIR COMPETITION AGAINST ALL
DEFENDANTS (BROUGHT AS INDIVIDUAL ACTION AND CLASS ACTION)**

10. Plaintiff incorporates in this cause of action the allegations contained in paragraphs 1 through 9, inclusive.
11. Commencing prior to June 24, 2006, but continuing on that date and continuing thereafter, defendant has engaged in, is engaged in, and proposes to engage in unfair competition as that term is defined in Business and Professions Code § 17200, which includes any "unlawful, unfair or fraudulent business act or practice," "unfair, deceptive, untrue or misleading advertising," and any act prohibited by Chapter 1 (commencing with § 17500) of Part 3 of Division 7 of the Business and Professions Code.
12. At all relevant times, defendant Delta was a national air carrier advertising its

- 1 services to the general public in California and throughout the United States.
- 2 13. Plaintiff Spencer booked round trip airline tickets on Delta's website for travel from
- 3 Orange County, California to Salt Lake City, Utah on February 27, 2010 and
- 4 returning to Orange County, California on March 1, 2010. What caused Plaintiff to
- 5 travel on Delta was the fare being offered on its webpage at www.delta.com. What
- 6 happened was a classic example of "bait and switch."
- 7 14. On or about February 24, 2010, Plaintiff Spencer went to Delta's webpage and
- 8 entered the dates he desired to travel. He initially looked at fares departing on Friday
- 9 February 26, 2010 but found those fares to be approximately \$374 plus taxes and
- 10 fees of \$21.40 round trip.
- 11 15. He then changed the date of departure and found that Delta was offering a flight
- 12 departing on Saturday February 27, 2010 at 6:45 a.m. and returning on Monday
- 13 March 1, 2010 at 4:30 p.m. for \$138 plus taxes of \$21.40. Mr. Spencer then changed
- 14 his travel plans and made arrangements for lodging and skiing to accommodate a
- 15 Saturday morning departure and a return on the following Monday evening.
- 16 16. Mr. Spencer then attempted to purchase the plane tickets on the Delta webpage for
- 17 the Saturday February 27, 2020 6:45 a.m. departure and the Monday March 1, 2020
- 18 4:30 p.m. return flight. When he clicked on the box reserving the flights he was
- 19 quoted a round trip price of \$138 plus \$21.40 in taxes/fees. He then entered his
- 20 credit card information. After he entered his credit card information he was
- 21 informed that the price of the airfare including taxes and fees was \$159.40 and was
- 22 prompted to click the purchase box. Below the purchase box there was a statement
- 23 advising Mr. Spencer that if he clicked the purchase box he would be committed to
- 24 the transaction. The language stated "When you click Purchase, you agree to all Fare
- 25 Rules for each flight & all terms in Delta's applicable Contract of Carriage. Your
- 26 credit card will be charged at this time. The transaction may take up to 3 minutes, so
- 27 please be patient."
- 28 17. Mr. Spencer then clicked on the Purchase box. After clicking the Purchase box a

1 new page opened stating "Fare Change. The fare quoted earlier of \$159.40 (USD) has
2 changed. The new fare for this itinerary is \$395.40 (USD). To continue your
3 purchase click continue. Otherwise click Start Over to return to the Reservations
4 input screen and select different dates and times."

5 18. Mr. Spencer then exited the screen and started over thinking there must have been
6 some sort of error on the webpage. He re-entered his travel dates and was again
7 quoted the \$159.40 round trip fare, but when after clicked to purchase the tickets at
8 that fare he was again notified that the actual price was \$395.40. Mr. Spencer then
9 called Delta's customer service and was told that there was no mistake on the
10 webpage and that the change in price Mr. Spencer encountered when he attempted
11 to purchase the tickets was "the way things worked" and the customer service
12 represented refused to honor the lower price quoted on the webpage.

13 19. Having already made plans for his trip Mr. Spencer went back on the webpage and
14 received the same quote of \$159.40 for the round trip airfare which changed to
15 \$395.40 after he attempted to purchase the tickets. Since he had already planned
16 the trip and made plans to be in Salt Lake City on the dates selected, Mr. Spencer
17 went through with the purchase at the \$395.40 rate.

18 20. Mr. Spencer went back on the Delta Airlines webpage the following day and saw
19 Delta was still offering the round trip airfare for \$159.40. Hoping Delta was actually
20 selling the tickets for the advertised price, Mr. Spencer went through all of the steps
21 to purchase the tickets, but after he clicked the purchase price he received the same
22 screen stating the actual price was \$395.40.

23 21. Plaintiff is informed and believes, and thereupon alleges, that during the class period
24 Delta operated the same false advertising scheme described above with regard
25 numerous flights departments from various airports for travel throughout the United
26 States. As a result, plaintiff alleges that Delta received payments in excess of the
27 advertised price from numerous class members.

28 22. The conduct of defendant as set forth above with respect to plaintiff and the class

1 members was an "unlawful" business act or practice within the meaning of Business
2 and Professions Code § 17200 because it violated 49 U.S.C. § 41712 and 14 CFR §
3 399.84.

4 23.49 U.S.C. § 41712 provides: "On the initiative of the Secretary of Transportation or
5 the complaint of an air carrier, foreign air carrier, or ticket agent, and if the Secretary
6 considers it is in the public interest, the Secretary may investigate and decide
7 whether an air carrier, foreign air carrier, or ticket agent has been or is engaged in an
8 unfair or deceptive practice or an unfair method of competition in air transportation
9 or the sale of air transportation. If the Secretary, after notice and an opportunity for
10 a hearing, finds that an air carrier, foreign air carrier, or ticket agent is engaged in an
11 unfair or deceptive practice or unfair method of competition, the Secretary shall
12 order the air carrier, foreign air carrier, or ticket agent to stop the practice or
13 method.

14 24.14 CFR § 399.84 is entitled "Price advertising" and provides: "The Board considers
15 any advertising or solicitation by a direct air carrier, indirect air carrier, or an agent
16 of either, for passenger air transportation, a tour (i.e., a combination of air
17 transportation and ground accommodations), or a tour component (e.g., a hotel stay)
18 that states a price for such air transportation, tour, or tour component to be an
19 unfair or deceptive practice, unless the price stated is the entire price to be paid by
20 the customer to the air carrier, or agent, for such air transportation, tour, or tour
21 component."

22 25. Because the price stated on the Delta website immediately before the credit or debit
23 card information is entered is not the entire price for the passenger air
24 transportation, by stating the inaccurate price Delta engaged in an unfair or
25 deceptive practice in violation of the foregoing provisions of law.

26 26. The conduct of defendant as set forth above with respect to plaintiff and the class
27 members was a "fraudulent" business act or practice and deceptive or misleading
28 advertisement within the meaning of Business and Professions Code § 17200

1 because plaintiff and the class members were likely to be deceived into believing that
2 they would be able to purchase the airline ticket at the quoted price when they
3 entered their credit or debit card information to complete the purchase. Defendant's
4 subsequent refusal to honor the advertised price and try to switch the plaintiff and
5 class members to a higher price does not eliminate the deceptive nature of the
6 scheme.

7 27. The conduct of defendant as set forth above with respect to plaintiff and the class
8 members was an "unfair" business act or practice within the meaning of Business
9 and Professions Code § 17200. The fairness of business conduct is determined by
10 weighing the practice's impact on consumers and members of the general public
11 against the business justification for the conduct. Here, there was no business
12 justification for falsely advertising a ticket price in order to induce the customer to
13 purchase the ticket and then trying to switch them to a higher priced identical ticket.
14 On the other hand, defendant's practices were harmful to consumers and caused
15 substantial financial loss.

16 28. In engaging in conduct that constitutes unfair competition, each defendant has
17 acquired money or property from members of the class. Specifically, defendant has
18 acquired money paid by customers who were induced to purchase lower priced
19 tickets and then switched to higher priced tickets after they entered their credit or
20 debit card information to complete the purchase. All money paid by said customers
21 in excess of the originally quoted price and interest thereon should be restored to the
22 class members.

23 29. Pursuant to Business and Professions Code § 17203 and § 17204, plaintiff is
24 empowered to act as Private Attorneys General to enjoin such conduct in the future
25 and to compel each defendant to restore to the members of the general public and
26 specifically the class members any money or property that it may have acquired as a
27 result of any act which constitutes unfair competition.

28 30. Plaintiff meets the standing requirements under Proposition 64 in that plaintiff has

brought this action as a class action pursuant to Code of Civil Procedure § 382, plaintiff has suffered injury in fact (the violation of the federal statutes and regulations as well as the Consumer Legal Remedies Act as alleged below) and has lost money (more than \$240) as a result of defendant's acts of unfair competition.

31. It is impossible for plaintiff to determine the exact amount of money due to the class members without a detailed review of defendant's financial books and records. Accordingly, plaintiff seeks, among other things, an accounting and/or the appointment of a receiver.

32. The aforementioned business practices of defendant are likely to continue and therefore will continue to violate the law unless this court enjoins it and requires defendant to cease the unlawful practices and to adopt policies and procedures to assure violations will not be committed in the future. Prior to filing this lawsuit, plaintiff's counsel sent a pre-lawsuit notice identifying the nature of the alleged violation and requesting that defendant remedy it by refunding illegally obtained ticket payments and cease the unlawful conduct. Defendant has not complied.

**SECOND CAUSE OF ACTION FOR VIOLATION OF CONSUMER LEGAL
REMEDIES ACT AGAINST ALL DEFENDANTS (BROUGHT AS INDIVIDUAL
ACTION AND CLASS ACTION ON BEHALF OF CALIFORNIA RESIDENT
CLASS MEMBERS ONLY)**

33. Plaintiff incorporates in this cause of action the allegations contained in paragraphs 1 through 32, inclusive.

34. Section 1770 of the Civil Code, which is part of the Consumer Legal Remedies Act, makes specified methods of competition and unfair or deceptive acts or practices undertaken by any person in a transaction intended to result or which results in the sale or lease of goods or services goods unlawful.

1 35. Plaintiff and the class members are "consumers" within the meaning of the
2 Consumer Legal Remedies Act in that they are natural persons who obtained
3 services for personal, family or household purposes.

4 36. The provision of air transportation services by defendant to plaintiff and the class
5 members was part of a transaction intended to result and which resulted in the
6 provision of services to consumers within the meaning of the Consumer Legal
7 Remedies Act.

8 37. At the time of these transactions, defendant violated the following provisions of Civil
9 Code section 1770:

- 10 a) Subdivision (a) (9) of Civil Code section 1770 by "Advertising goods or services with
11 intent not to sell them as advertised."
12 b) Subdivision (a) (10) of Civil Code section 1770 by "Advertising goods or services with
13 intent not to supply reasonably expectable demand, unless the advertisement
14 discloses a limitation of quantity."

15 38. The aforementioned Delta website did not disclose any limitation of the quantity of
16 tickets available at the lower listed price.

17 39. On April 8, 2010, plaintiff, acting through his counsel, notified defendant on behalf
18 of himself and all similarly situated persons, of the unlawful acts and practices
19 described above by written notice which contained a demand that said defendant
20 rectify the situation by ceasing the deceptive and misleading practices, by identifying
21 all persons who were overcharged air transportation, by offering to provide to each
22 such person a remedy in the form of refund of the amount of the overcharge plus
23 interest, and by providing the refunds upon demand.

24 40. Plaintiff's notice was sent by certified mail, return receipt requested, to the place
25 where the transaction occurred and defendant's principle place of business.
26 Defendant received the notices but failed to take the remedial steps and failed to
27 agree to take the remedial steps within 30 days of the date upon which said
28 defendant received the notice specific to that defendant.

41. As a direct and proximate result of the aforementioned acts of defendant, plaintiff and class members sustained actual damages, including general damages, in an amount according to proof by being subjected to a violation of their rights under the Consumer Legal Remedies Act. In particular, such damages would include the excessive amount of money paid by plaintiff and class members for the services of defendant.

42. The aforementioned acts of defendant constituted malice, oppression and fraud within the meaning of Civil Code § 3294, and thereby entitle plaintiff and class members to punitive or exemplary damages in an amount according to proof.

REQUEST FOR JURY TRIAL

WHEREFORE, plaintiff prays for trial by jury.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays for judgment on all causes of action against defendant as follows:

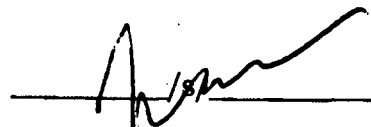
1. For an order certifying this matter as a class action;
2. For a declaration of the rights and liabilities of the parties including a declaration that the defendant's practice of advertising a lower price and then refusing to honor it after the credit or debit card purchase is attempted is an unlawful, deceptive or unfair business practice in violation of the UCL and CLRA.
3. For preliminary and permanent injunctive relief pursuant to Business and Professions Code § 17203 and Civil Code § 1780 restraining and enjoining defendant from continuing the acts of unfair and unlawful competition and deceptive practices set forth above, requiring defendant to take any acts needed to prevent further violations, and requiring defendant to take affirmative measures to redress past wrongdoings;
4. For an order requiring defendant to provide an accounting of all moneys which they may have received as a result of the acts and practices found to constitute unfair

- 1 competition under Business and Professions Code § 17200;
- 2 5. For an order that defendant identify, locate and make restitution to affected
- 3 members of the class, and all additional orders necessary to accomplish this purpose,
- 4 pursuant to Business and Professions Code § 17203;
- 5 6. For distribution of any moneys recovered on behalf of members of the class, via fluid
- 6 recovery or cy pres recovery where necessary to prevent defendant from retaining
- 7 the benefits of their wrongful conduct as provided in California v. Levi Strauss & Co.
- 8 (1986) 41 Cal.3d 460 and People v. Thomas Shelton Powers, M.D. Inc. (1992) 2
- 9 Cal.App.4th 330;
- 10 7. For compensatory damages on the second cause of action;
- 11 8. For interest on the sum of money to be restored on the first cause of action and on
- 12 the damages sought under the second cause of action;
- 13 9. For punitive damages on the second cause of action in an amount appropriate to
- 14 punish defendant for their wrongful conduct and to set an example for others;
- 15 10. For reasonable attorney's fees pursuant to Civil Code § 1780, pursuant to the Private
- 16 Attorney General doctrine set forth in Code of Civil Procedure § 1021.5, pursuant to
- 17 the "common fund" doctrine, and pursuant to the "substantial benefit" doctrine.
- 18 11. For costs of suit incurred herein; and
- 19 12. For such other and further relief as the court may deem proper.

20 DATED: June 24, 2010

21 Respectfully submitted,

22
23 By



24
25 JEFFREY WILENS
26 Attorney for Plaintiff
27
28

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2 **Jeffrey Wilens, Esq. (State Bar No. 120371)**
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FILED
CIVIL BUSINESS OFFICE 10
CENTRAL DISTRICT

2010 JUN 28 A 10:16

CLERK OF SUPERIOR COURT
SAN DIEGO COUNTY, CA

ORIGINAL

8 **Attorney for Plaintiff**

9 **SAN DIEGO COUNTY SUPERIOR COURT, CENTRAL**
10 **COURTHOUSE, STATE OF CALIFORNIA (Unlimited Civil)**

11 **330 West Broadway, San Diego, CA 92101**

12 **JEFFREY P. SPENCER, on behalf of) Case No. 37-2010-00095132-CU-BT-CTL**
13 **himself and all persons similarly)**
14 **situated,)**

15 **Plaintiff,)**

16 **v.)**

CLASS ACTION

17 **DELTA AIR LINES, INC.,) **VENUE DECLARATION OF JEFFREY****
18 **and DOES 1 through 100 inclusive,) **WILENS****

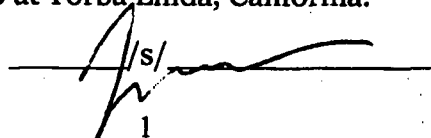
19 **Defendants.)**

- 20 1. I am an attorney of record for plaintiff in this matter. I could and would competently
21 testify to the below stated facts of my own personal knowledge if called as a witness.
22 2. The complaint in this action is filed in the proper place for trial under Civil Code §
23 1780, subdivision (d) in that San Diego is a county in which the person against whom
24 this action is brought "is doing business."

25 I declare under penalty of perjury under the laws of the State of California that
26 the foregoing is true and correct, except as to those matters stated on information and
27 belief, and as to those matters I believe them to be true.

28 Executed on June 24, 2010 at Yorba Linda, California.

By


1

VENUE DECLARATION

CM-010

FOR COURT USE ONLY

FILED
CIVIL BUSINESS OFFICE 10
CENTRAL DIVISION

2010 JUN 28 A 10:16

CLEAR - SUPERIOR COURT
SAN DIEGO COUNTY, CA

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

Jeffrey Wilens, Esq. (#120371)
Lakeshore Law Center
18340 Yorba Linda Blvd.
No. 107-610
Yorba Linda, CA 92886

TELEPHONE NO.: 714-854-7205

FAX NO.: 714-854-7206

ATTORNEY FOR (Name): Plaintiff

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego

STREET ADDRESS: 330 West Broadway

MAILING ADDRESS: P. O. Box 22028

CITY AND ZIP CODE: San Diego, CA 92101

BRANCH NAME: Central Hall of Justice

CASE NAME: Spencer v. Delta Air Lines, Inc., et. al.

CIVIL CASE COVER SHEET

☒ Unlimited (Amount demanded exceeds \$25,000)
 ☐ Limited (Amount demanded is \$25,000 or less)

Complex Case Designation

☐ Counter ☐ Joinder
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER:

37-2010-00095132-CU-BT-CTL

JUDGE:

DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort

☐ Auto (22)
☐ Uninsured motorist (46)

Other P/PI/D/W/D (Personal Injury/Property Damage/Wrongful Death) Tort

☐ Asbestos (04)
☐ Product liability (24)
☐ Medical malpractice (45)
☐ Other P/PI/D/W/D (23)

Non-P/PI/D/W/D (Other) Tort

☒ Business tort/unfair business practice (07)
☐ Civil rights (08)
☐ Defamation (13)
☐ Fraud (16)
☐ Intellectual property (19)
☐ Professional negligence (25)
☐ Other non-P/PI/D/W/D tort (35)

Employment

☐ Wrongful termination (36)
☐ Other employment (15)

Contract

☐ Breach of contract/warranty (06)
☐ Rule 3.740 collections (09)
☐ Other collections (09)
☐ Insurance coverage (18)
☐ Other contract (37)

Real Property

☐ Eminent domain/Inverse condemnation (14)
☐ Wrongful eviction (33)
☐ Other real property (26)

Unlawful Detainer

☐ Commercial (31)
☐ Residential (32)
☐ Drugs (38)

Judicial Review

☐ Asset forfeiture (05)
☐ Petition re: arbitration award (11)
☐ Writ of mandate (02)
☐ Other judicial review (39)

Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)

☐ Antitrust/Trade regulation (03)
☐ Construction defect (10)
☐ Mass tort (40)
☐ Securities litigation (28)
☐ Environmental/Toxic tort (30)
☐ Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment

☐ Enforcement of judgment (20)

Miscellaneous Civil Complaint

☐ RICO (27)
☐ Other complaint (not specified above) (42)

Miscellaneous Civil Petition

☐ Partnership and corporate governance (21)
☐ Other petition (not specified above) (43)

2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- a. ☐ Large number of separately represented parties d. ☒ Large number of witnesses
- b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
- c. ☒ Substantial amount of documentary evidence f. ☐ Substantial postjudgment judicial supervision
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): Two
5. This case ☒ is ☐ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: June 24, 2010

Jeffrey Wilens, Esq. (#120371)

(TYPE OR PRINT NAME)

I (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

SUMMONS (CITACION JUDICIAL)

SUM-100

NOTICE TO DEFENDANT: Delta Air Lines, Inc., and Does 1
(**AVISO AL DEMANDADO:**) through 100 inclusive,

ORIGINAL

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)
CIVIL BUSINESS OFFICE 10
CENTRAL DIVISION

2010 JUN 28 A 10:16

CLERK-SUPERIOR COURT
SAN DIEGO COUNTY, CA

YOU ARE BEING SUED BY PLAINTIFF: Jeffrey P. Spencer, on
(**LO ESTÁ DEMANDANDO EL DEMANDANTE:**) behalf of himself
and all persons similarly situated,

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):

Superior Court, County of San Diego
330 West Broadway
P. O. Box 22028
San Diego, CA 92101

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Jeffrey Wilens, Esq.
Lakeshore Law Center
18340 Yorba Linda Blvd., Suite 107-610
Yorba Linda, CA 92886

DATE: JUN 28 2010

(Fecha)

Clerk, by

(Secretario)

CASE NUMBER:

(Número de Caso)

37-2010-00095132-CU-BT-CTL

Deputy

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

- under:
- | | |
|--|---|
| <input type="checkbox"/> CCP 416.10 (corporation) | <input type="checkbox"/> CCP 416.60 (minor) |
| <input type="checkbox"/> CCP 416.20 (defunct corporation) | <input type="checkbox"/> CCP 416.70 (conservatee) |
| <input type="checkbox"/> CCP 416.40 (association or partnership) | <input type="checkbox"/> CCP 416.90 (authorized person) |
| <input type="checkbox"/> other (specify): | |

4. ☐ by personal delivery on (date):

(SEAL)



| | |
|--|--|
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO | |
| STREET ADDRESS: 330 West Broadway | |
| MAILING ADDRESS: 330 West Broadway | |
| CITY AND ZIP CODE: San Diego, CA 92101 | |
| BRANCH NAME: Central | |
| TELEPHONE NUMBER: (619) 450-7087 | |
| PLAINTIFF(S) / PETITIONER(S): Jeffrey P Spencer | |
| DEFENDANT(S) / RESPONDENT(S): Delta Air Lines Inc | |
| SPENCER VS. DELTA AIR LINES INC | |
| NOTICE OF CASE ASSIGNMENT | CASE NUMBER: 37-2010-00095132-CU-BT-CTL |

Judge: David B. Oberholtzer

Department: C-67

COMPLAINT/PETITION FILED: 06/28/2010

CASES ASSIGNED TO THE PROBATE DIVISION ARE NOT REQUIRED TO COMPLY WITH THE CIVIL REQUIREMENTS LISTED BELOW

IT IS THE DUTY OF EACH PLAINTIFF (AND CROSS-COMPLAINANT) TO SERVE A COPY OF THIS NOTICE WITH THE COMPLAINT (AND CROSS-COMPLAINT).

ALL COUNSEL WILL BE EXPECTED TO BE FAMILIAR WITH SUPERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND WILL BE STRICTLY ENFORCED.

TIME STANDARDS: The following timeframes apply to general civil cases and must be adhered to unless you have requested and been granted an extension of time. General civil consists of all cases except: Small claims appeals, petitions, and unlawful detainers.

COMPLAINTS: Complaints must be served on all named defendants, and a CERTIFICATE OF SERVICE (SDSC CIV-345) filed within 60 days of filing. This is a mandatory document and may not be substituted by the filing of any other document.

DEFENDANT'S APPEARANCE: Defendant must generally appear within 30 days of service of the complaint. (Plaintiff may stipulate to no more than a 15 day extension which must be in writing and filed with the Court.)

DEFAULT: If the defendant has not generally appeared and no extension has been granted, the plaintiff must request default within 45 days of the filing of the Certificate of Service.

THE COURT ENCOURAGES YOU TO CONSIDER UTILIZING VARIOUS ALTERNATIVES TO LITIGATION, INCLUDING MEDIATION AND ARBITRATION, PRIOR TO THE CASE MANAGEMENT CONFERENCE. MEDIATION SERVICES ARE AVAILABLE UNDER THE DISPUTE RESOLUTION PROGRAMS ACT AND OTHER PROVIDERS. SEE ADR INFORMATION PACKET AND STIPULATION.

YOU MAY ALSO BE ORDERED TO PARTICIPATE IN ARBITRATION PURSUANT TO CCP 1141.10 AT THE CASE MANAGEMENT CONFERENCE. THE FEE FOR THESE SERVICES WILL BE PAID BY THE COURT IF ALL PARTIES HAVE APPEARED IN THE CASE AND THE COURT ORDERS THE CASE TO ARBITRATION PURSUANT TO CCP 1141.10. THE CASE MANAGEMENT CONFERENCE WILL BE CANCELLED IF YOU FILE FORM SDSC CIV-359 PRIOR TO THAT HEARING

1 *Jeffrey P. Spencer v. Delta Air Lines, Inc.*
2 San Diego Superior Court, Case No. 37-2010-00095132-CU-BT-CTL
3 U.S. District Court, Southern District of California, Case No.

4 PROOF OF SERVICE

5 STATE OF CALIFORNIA, COUNTY OF SAN DIEGO

6 I am employed in the County of San Diego; I am over the age of eighteen years and
7 not a party to the within entitled action; my business address is 501 West Broadway, 19th
8 Floor, San Diego, California 92101-3598.

9 On July 30, 2010, I served the following document(s) described as

10 **CIVIL COVER SHEET**

11 **DEFENDANT DELTA AIR LINES, INC.'S NOTICE OF REMOVAL TO
12 FEDERAL COURT**

13 on the interested party(ies) in this action by placing true copies thereof enclosed in sealed
14 envelopes and/or packages addressed as follows:

15 Jeffrey Wilens, Esq.
16 Lakeshore Law Center
17 18340 Yorba Linda Blvd., Suite 107-610
18 Yorba Linda, CA 92886
19 Tel 714-854-7205; Fax 714-85407206
20 Email jeff@lakeshorelaw.org

Attorneys for Plaintiffs
Jeffrey P. Spencer, et al.

21 ☒ **BY MAIL:** I am "readily familiar" with the firm's practice of collection and
22 processing correspondence for mailing. Under that practice it would be deposited
23 with the U.S. postal service on that same day with postage thereon fully prepaid at
24 San Diego, California in the ordinary course of business. I am aware that on motion
25 of the party served, service is presumed invalid if postal cancellation date or postage
26 meter date is more than one day after date of deposit for mailing in affidavit.

27 ☒ **FEDERAL:** I declare that I am employed in the office of a member of the bar of
28 this Court at whose direction the service was made. I declare under penalty of
perjury under the laws of the United States of America that the foregoing is true and
correct.

☒ **STATE:** I declare under penalty of perjury under the laws of the State of
California that the foregoing is true and correct.

Executed on July 30, 2010, at San Diego, California.

Phyllis Chavez

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained in neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

JEFFREY P. SPENCER, on behalf of himself and all persons similarly situated

DEFENDANTS

DELTA AIR LINES, INC.

FILED

10 JUL 30 PM 1:51

(b) County of Residence of First Listed Plaintiff Orange
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant State of Georgia
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Jeffrey Wilens, Esq.
Lakeshore Law Center
18340 Yorba Linda Blvd., Suite 107-610
Yorba Linda, CA 92886
Tel 714-854-7205; Fax 714-85407206

Attorneys (If Known)

Sheppard, Mullin, Richter & Hampton
Shannon Z. Petersen, 501 West Broadway, 19th Floor, San Diego, CA 92101-3598, Tel 619-338-6500, Fax 619-234-3815
Philip F. Atkins-Pattenson, Four Embarcadero Center, 17th Floor, San Francisco, CA 94111, Tel 415-434-9100; Fax 415-434-3947

DEPUTY

10 CV 1594 JM

WMC

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

| CONTRACT | TORTS | | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES |
|--|--|--|--|--|---|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury | PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark | <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes |
| REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights | PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition | LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act | SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) | |
| | | | IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions | FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | |

V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
☒ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. Section 1441

Brief description of cause:

Plaintiff alleges violation of state law based on alleged violation of 49 U.S.C. § 41712

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

July 30, 2010

SIGNATURE OF ATTORNEY OF RECORD

Shannon Z. Petersen

FOR OFFICE USE ONLY

RECEIPT #

16463

AMOUNT

\$350

APPLYING IFP

7/30/10 BY

JUDGE

MAG. JUDGE

American LegalNet, Inc.
www.FormsWorkflow.com

DUPLICATE

Court Name: USDC California Southern
Division: 3
Receipt Number: CAS016463
Cashier ID: bhartman
Transaction Date: 07/30/2010
Payer Name: SHEPPARD MULLIN

CIVIL FILING FEE

For: SPENCER V DELTA AIR LINES
Case/Party: D-CAS-3-10-CV-001594-001
Amount: \$350.00

CHECK

Check/Money Order Num: 692799
Amt Tendered: \$350.00

Total Due: \$350.00
Total Tendered: \$350.00
Change Amt: \$0.00

There will be a fee of \$45.00
charged for any returned check.